IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

FRIDAY, THE EIGHTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SMT JUSTICE T.MEENA KUMARI

and
HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

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Writ Appeal Nos. 1270; 1272 & 601 of 2004

WRIT APPEAL NO : 1270 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20/1/2004 in WP NO : 13034 OF 1994 on the file of the High Court.)

Between:

G. Jagan Mohan Reddy, S/o Subba Reddy,
O/o Chief Engineer, T.T.D. Tirupati, Chittoor District.

..... APPELLANT

AND

1 The Executive Engineer, Tirumala Tirupathi Devastanams,
Tirupathi, Chittoor District.
2 The Government of A.P., Rep. by its Prl. Secretary,

Revenue (Endts) Department, Secretariat, Hyderabad.
3 S. Chandrasekhar, s/o S. Obaiah, O/o Tirumala Tirupati

Devastanam, Tirupati, Chittoor District.
4 R.S.S.V.R. Subrahmanyam, S/o Sri Someswar Rao,
O/o Tirumala Tirupati Devastanam, Tirupati,

Chittoor District.

.....RESPONDENTS

Counsel for the Appellant: MR.P.VEERA REDDY

Counsel for the Respondent No1.: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent Nos.3&4 : None appeared

*Form-NIC-OGS/WA {**AVLR**}*

WRIT APPEAL NO : 1272 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20/01/2004 in WP NO : 13034 OF 2004 on the file of the High Court.)

Between:

The Tirumala Tirupati Devasthanams Rep. By its Executive Officer, Tirupati, Chittoor District.

..... APPELLANT

AND

1. The Govt. of AP, rep. By its Prl. Secretary, Revenue

(Endowments) Department, Secretariat, Hyderabad

2. S. Chandrasekhar, Working as Asst. Executive Engineer,
C/o. Extra-Sub-Division, E.E.II, T.T.D., Tirupathi,

Chittoor Dist.

3 R.S.V.R. Subramanyam, C/o. Chief Engineer, TTD, Tirupathi,

Chittoor District.

4 G. Jagan Mohan Reddy S/o. Subba Reddy
O/o. Chief Engineer, TTD Tirupathi, Chittoor District.

.....RESPONDENTS

Counsel for the Appellant: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for the respondent Nos. 2 & 3 : MR V JAGAPATHI

Counsel for the respondent No. 4 : MR P VEERA REDDY

WRIT APPEAL NO : 601 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 20/01/2004 in W.P.No. 13034 of 1994 on the file of the High Court.)

Between:

1 S.Chandrasekhar son of S.Obaiah
Dy. Executive Engineer (North) Tirumala Tirupathi
Devasthanams, Tirumala Chittoor Dist
2 R.S.S. V.R. Subrahmanyam son of Someswara Rao
Dy. Executive Engineer (North) Tirumala Tirupathi
Devasthanams, Tirumala Chittoor Dist

..... APPELLANTS

AND

1 G.JaganMohan Reddy son of Subba Reddy
Tirumala Tirupathi Devasthanams , Tirupathi
Chittoor Dist
2 The Executive Officer
Tirumala Tirupathi Devasthanams , Tirupathi, Chittoor Dist
3 The Government of Andhra Pradesh, rep. by its Principal

Secretary Revenue (Endt) Dept. Secretariat, Hyderabad

.....RESPONDENTS

Counsel for the Appellants: MR.V.JAGAPATHI

Counsel for the Respondent No.1 : MR P VEERA REDDY

Counsel for the Respondent No.2 : MR A K JAYAPRAKASH RAO

Counsel for the Respondent Nos.3: GP FOR ENDOWMENTS

The Court made the following :

COMMON JUDGMENT (per Hon'ble Smt Justice T Meena Kumari):

Aggrieved by the order dated 20.10.2004 passed in W.P.No. 13034 of 2004 by the learned single Judge of this Court, the petitioner as well as the respondent No.1 on one hand and respondents-3 and 4 on the other hand, have preferred these three writ appeals respectively.

2. Since these three appeals arise out of a same order and the controversy involved in all the appeals, is one and the same, we dispose of these appeals by a common judgment.

3. All these writ appeals arise out of the order of a learned single Judge in

W.P.No.13034 of 2004 by the petitioner as well as the respondents separately. The writ petitioner preferred W.A.No.1270 of 2004, whereas 1st respondent preferred W.A.No.1272 of 2004 and respondents 3 & 4 preferred W.A.No.601 of 2004. For the purpose of convenience, the parties will be referred to as arrayed in the writ petition.

4. For better appreciation of the facts and legal position involved in these appeals, the brief facts of the case are thus;- The writ petitioner was appointed as Assistant Executive Engineer with effect from 01-06-1989, whereas respondents 3 and 4 were supervisors with Diploma qualification and subsequently, since they have obtained degrees in Engineering, they were promoted as Assistant Executive Engineers by virtue of the orders of 1st respondent-TTD dt. 2-11-1991& 17-4-1991 on the representations made by them on 22-7-1991 & 13-11-1990 respectively. It is also the case of the writ petitioner that by virtue of the provisions of G.O.Ms.No. 563, dated 17.03.1978, 1st respondent-TTD converted the above two individuals as Assistant Executive Engineers and given notional seniority in the said cadre with effect from 15.2.1989 and 31.3.1989 respectively by giving 1/3rd weightage of their past service and made it clear that the notional appointment is purely for the purpose of ranking and seniority in the Asst. Executive Engineer cadre, but they are not entitled for any monitory benefits with effect from 10-12-1990. Aggrieved by the same, the petitioner filed the writ petition in 1994 alleging that by virtue of the impugned orders, his promotion has been effected in the cadre of Deputy Executive Engineer as respondents 3 and 4 who are juniors to him, have become seniors to him and he has been deprived of his further promotions. The respondents 3 and 4 contested the writ petition relying on the provisions of G.O. Ms. No. 563, dt. 17-3-1978. The learned single Judge after going through the contents of G O Ms.No.563, dated 17.3.1978, held that the method adopted for giving ranking and seniority to respondents 3 and 4 as Assistant Executive Engineers on the basis of the last date of examination for which they appeared for the degree course is arbitrary and illegal and directed the respondents 1 & 2 to consider the case of the petitioner by fixing his rank in seniority list of Assistant Executive Engineers above the respondents 3 and 4 by taking date of notification of the results of the examination for the purpose of promotion of respondents 3 and 4 or any other criteria that may be necessary

for the purpose of giving weightage. It is further directed that the above exercise shall be completed within three months from the date of receipt of a copy of the order. Hence, the above respective parties preferred these writ appeals.

6. Learned Counsel Mr P Veera Reddy, appearing on behalf of the writ petitioner submits that the writ petitioner was appointed as Assistant Engineer on 1-6-1989 and joined duty on 21-7-1989 and he was working as Assistant Executive Engineer. While so, respondents 3 and 4 who were Diploma holders and obtained their degree qualifications subsequently, were given promotion by virtue of the orders passed by 1st respondent-TTD on 02-11-1991 & 17-4-1991 respectively by fixing up the notional seniority after adding service weightage, as a result of which they have become seniors to the writ petitioner. Learned counsel further contended that fixing up of notional rank and seniority in this particular case is not in conformity with the ratio laid down by the Apex Court in a judgment reported in *State of Andhra Pradesh and another vs., K.S. Muralidhar and others*, wherein the Supreme Court had an occasion to deal with the G.O., i.e., GOMs.No.559 (I&P) dated 18-7-1977 as to the consideration of weightage. While dealing with the matter therein, it was made clear that weightage of four years in respect of upgraded Junior Engineers as provided in G.O Ms.No.559 has to be reckoned from the date of appointment and not the date of acquiring the degree qualification. It was further made clear that on the basis of that notional date, their inter se seniority has to be fixed. Learned counsel also submits that even if the ratio laid down by the Supreme Court is followed, the notional date of appointment of respondent No.3 would be 19-09-1989 even after giving weightage of his one third past service and the notional date for respondent No.4 would be 19-10-1989 and their notional appointment for seniority and ranking would be from the dates of the impugned orders i.e., 02-11-1991 & 17-4-1991 respectively. Therefore, the order impugned in the writ petition is arbitrary and illegal.

7. Per contra, learned counsel for the respondents 3 & 4 submits that in the light of the provisions of GOMs No. 563, dated 18-7-1978, 1st respondent –TTD had not committed any mistake and the view taken by the learned single Judge is not correct and therefore, the order impugned in the writ petition, is sustainable.

8. We have heard the counsel for the respective parties.

9. We have gone through the material on record and had an occasion to go through the judgment of the Supreme Court cited above, wherein the Supreme Court at para-19 observed that :

> 19. Having given our careful consideration particularly to the fact that this litigation has been pending for the last so many years, about two decades, we feel that it is high time a finality has to be reached by resolving the controversies and in this context we are of the view that the approval of the Public Service Commission in respect of these appointments need not be sought, if the Government has not already obtained the approval of the Public Service Commission. To sum up, our conclusions are as under;
>
> i. The weightage of four years in respect of upgraded Junior Engineers as provided in G.O.Ms.No. 559 has to be reckoned from the date of appointment and not the date of their acquiring the degree qualification;
>
> ii. On the basis of that notional date, their inter se seniority has to be fixed;

10. In the light of the ratio and the guidelines issued by the Apex Court, We are of the view that the direction issued by the learned single Judge warrants interference by this Court and therefore, it is a fit case to modify the same as under:

> "The T.T.D. is directed to reckon the seniority of respondents 3 & 4 from the dates of their respective appointments as Assistant Executive Engineers."

11. Subject to the above modification of the order of the learned single Judge, these writ appeals are disposed of. However, it is made clear that the order in these appeals is confined to the cases of the parties herein.

T. MEENA KUMARI, J

Dt. 08-11-2005

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P. LAKSHMANA REDDY, J

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HON'BLE SMT JUSTICE T.MEENA KUMARI

and

HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

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Writ Appeal Nos. 1270; 1272 & 601 of 2004

(Common Judgment of the Division Bench delivered

by the Hon'ble Smt Justice T Meena Kumari)

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08th JULY 2005

Copies marked to;

1 The Executive Engineer, Tirumala Tirupathi Devastanams, Tirupathi, Chittoor District.

2 The Prl. Secretary,

Revenue (Endts) Department, Government of A.P.,
Secretariat, Hyderabad.
3 Two CD copies.

4 Two CCs to the Government Pleader for Endowments Dept.

High Court of A.P., Hyderabad (OUT).